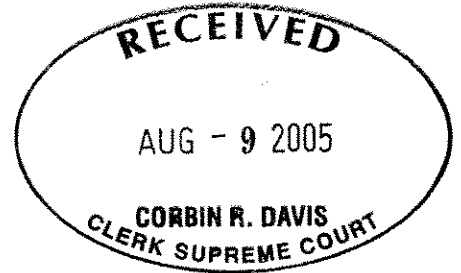


**PUBLIC DEFENSE  
TASK FORCE**



Public Defense Task Force/MCCD  
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August 8, 2005



Corbin Davis  
Clerk, Michigan Supreme Court  
G. Mennen Williams Building  
PO Box 30052  
Lansing, MI 48909

Re: Administrative File No. 2001-10  
Proposed Amendment of Rule 8.123 of the Michigan Court Rules.  
Counsel Appointments, Procedure and Records

Dear Mr. Davis:

We are providing comments on the above-proposed rule on behalf of the Michigan Public Defense Task Force. The Task Force is a representative group of attorneys and non-attorneys committed to improving Michigan's public defense services. Working with funding provided by the Gideon Project of the American Bar Association, the Task Force has facilitated meetings over the past 4 years resulting in the development of The Model Plan for Public Defense Services in Michigan.

The findings of the Task Force, regarding the current method of providing public defense in Michigan include: 1) the system is drastically under funded (Michigan ranks near the bottom of states nationwide in resources provided for public defense); 2) support services are rarely available in assigned cases; 3) uniform standards for workloads or performance are nonexistent; and 4) accurate and comprehensive data is unavailable. The Model Plan calls for improving the system of public defense through increased funding and accountability that will insure that every defendant, regardless of where he or she is tried, will be provided qualified and trained attorney. The Plan notes that data and information on current caseloads, funding, and attorney qualifications are critical to informing public policy development in this important area.

Therefore, the Michigan Public Defense Task Force DOES NOT SUPPORT those proposed amendments to Rule 8.123 that would reduce the quality and quantity of available data and information. Our specific comments re: the proposed amendments follow:



- We support the proposed change in subsection (D) specifying courts submit annual reports electronically. We also support the revision in subsection (F) requiring trial courts to submit their annual electronic reports to the State Court Administrator in the form specified by the State Court Administrator. We recommend however that the rule specifically state in subsection (E) that the annual reports submitted electronically to the State Court Administrator's office be made available electronically to the public on the SCAO web site.
- We do not support the proposed changes to delete subsections (D)(1)(2)(4), which require the content of the annual report to include the number of appointments given to each attorney by the court, the number of appointments given to each attorney by each judge of that court, and the total public funds paid to each attorney for appointments by each judge of that court. As previously stated, one of the major deficiencies in the current public defense system is the wide disparity among the courts of standards for appointment of public defense counsel, volume of cases handled by each attorney or affiliated group of attorneys, and the number of appointments made by each judge of the court. This is and will continue to be important information if we hope to improve the public defense system and provide more uniform standards of justice throughout our courts.
- We recognize that the information currently required but proposed to be deleted in subsection (D) is included in subsection (F) but only required "[w]hen requested by the State Court Administrator." We believe it is better to require this information from every court in the annual report than to leave it to the discretion of the State Court Administrator to request it of some courts but not others. On what basis would the State Court Administrator request it? Would it be the result of alleged abuses in appointments or complaints that one attorney or attorney group was being favored or not favored by the amount of public funds paid or not paid for appointments? If information is asked for selectively, the mere asking for it could be misinterpreted.
- We support the proposed additional language in subsection (F), which requires a trial court to submit its report in the form specified by the State Court Administrator. We believe it would not be that difficult for the State Court Administrator to develop an electronic form which includes spaces for trial courts to insert the numbers relating to the information required in Subsection (D)(1)(2)(4) by the current rule.
- We support the revision in subsection (D) that adds language applying the subsection to appointments of attorneys in any capacity, regardless of the indigency status of the represented party. However, we recommend language be added to require the annual report to distinguish the total public funds paid


to each attorney for appointments for indigent defense from the funds paid for non-indigent defense work.

We recognize that trial courts are experiencing economic constraints similar to those of other state and local government agencies. But we believe that the information currently required by this rule is important to maintain the public trust and confidence in the administration of justice. We also believe that the information is critical for assessing the performance Michigan's system against that of comparable states and national standards. In addition, we believe that, with the trial courts and the State Court Administrators Office working together, we can develop a system of electronic reporting that will not be overly costly or time consuming for the courts. We offer the services of members of the Michigan Public Defense Task Force to assist in that effort, should that be the course chosen by the Court.

Thank you for considering our comments.

A handwritten signature in cursive script, reading "Elizabeth Arnovits".

Elizabeth Arnovits, Chair  
Michigan Public Defense Task Force

A handwritten signature in cursive script, reading "William Long / pv".

William E. Long, Attorney  
Member, Michigan Public Defense Task Force

A handwritten signature in cursive script, reading "Frank Eaman / pv".

Frank Eaman, Attorney  
Member, Michigan Public Defense task Force